

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

UNITED STATES OF AMERICA

NO. 23-2756

Appellee,

v.

MOTION TO PERMIT
COUNSEL TO
WITHDRAW

DEREK MICHAEL CHAUVIN,

Appellant,

Eric J. Nelson, counsel of record for the Appellant in the above-captioned matter, respectfully moves this Court, pursuant to Fed. R. App. P. 27 and Eighth Circuit Rule 27(B)(b), for its order permitting Eric J. Nelson to withdraw as counsel for the Appellant in accordance with *Anders v. California*, 386 U.S. 738 (1967); *Penson v. Ohio*, 488 U.S. 75 (1988); and *Robinson v. Black*, 812 F.2d 1084 (8th Cir. 1987), *cert. denied*, 488 U.S. (1988).

The Appellant's undersigned counsel has made a thorough and conscientious review of the record in this case, and has concluded that there are no non-frivolous issues of arguable merit which may in good faith be presented on an appeal to this Court for the following reasons:

1. The Appellant executed a plea agreement waiving his right to appeal any sentence of a length shorter than 300 months.
2. The change of plea hearing transcript reflects that Appellant was satisfied with his counsel, understood the plea agreement, and understood his rights.
3. The District Court's sentence of 240 months was less than 300 months and fell below the applicable Guidelines range of LIFE imprisonment.
4. The Appellant was sentenced on July 7, 2022, and declined to take a direct appeal of his sentence within 14 days of his sentencing. As such, a brief pursuant to *Anders* and *Robinson*, would, itself, be frivolous.
5. Appellant has indicated that he is no longer satisfied with present counsel, seeks to proceed in forma pauperis, and in an August 9, 2023, telephone message, directed the undersigned counsel to withdraw from this matter.

WHEREFORE, the undersigned counsel of record for the Appellant respectfully request that this Court enter its order permitting Eric J. Nelson to withdraw as counsel in this appeal for the Appellant, Derek Michael Chauvin.

Dated: August 9, 2023

Respectfully submitted,

HALBERG CRIMINAL DEFENSE

/s/ Eric J. Nelson

Eric J. Nelson

Attorney License No. 308808

7900 Xerxes Avenue South

Suite 1700

Bloomington, MN 55431

(612) 333-3673